

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

In the Matter of )  
 )  
Amendment of Parts 73 and 74 of the )  
Commission’s Rules to Establish Rules for ) **MB Docket No. 03-185**  
Digital Low Power Television, Television Translator )  
And Television Booster Stations and to Amend )  
Rules for Digital Class A Television Stations )

To: The Commission

**Reply Comments of Venture Technologies Group, LLC**

1. Venture Technologies Group, LLC and its affiliated companies (“VenTech”) hereby submit the following reply comments in the above-captioned *Notice of Proposed Rulemaking* regarding the transition of low-power television stations (“LPTV”) and television translator stations to digital operation (the “NPRM”).<sup>1</sup>

Summary of Commentators

2. Having reviewed the comments filed in this proceeding, VenTech feels that while there have been plethora of differing views, the Commission can in fact make everyone happy. The main viewpoints can be summarized as follows:

a. Full-Power Television Stations Full-power television stations are primarily concerned with LPTV stations making it difficult for them to complete their digital transition. Accordingly, they have requested that LPTV stations remain secondary, be forced to ‘flash-cut’ to digital (rather than be given a second digital

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<sup>1</sup> MB Docket No. 03-185, FCC 03-198 (rel. August 29, 2003).

channel), and do not want LPTV stations to file new applications that would divert FCC resources from working on full-power television station requests.

b. Low-Power Television Stations LPTV stations have asked for priority in the digital transition, primary status, program exclusivity, and cable carriage rights.

c. 700 MHz Operators 700 MHz operators have asked that the LPTV stations clear the 700 MHz band entirely. The 700 MHz operators are concerned that unless that happens, the LPTV stations will make it difficult for new 700 MHz services to commence.

d. Television Translator Stations Television translator stations have asked for priority in the digital transition.

e. Television Booster Stations Television booster stations have asked for priority in the digital transition.

f. Engineers Engineers have proposed new technical rules.

### Discussion

3. At first blush, aside from the engineers, these viewpoints appear at odds with each other. Everyone is clamoring to protect or gain spectrum at another party's expense. It reminds us of the Tom Lehrer parody song "National Brotherhood Week":

*Oh, the white folks hate the black folks  
And the black folks hate the white folks  
To hate all but the right folks  
Is an old established rule.  
Oh the Protestants hate the Catholics  
And the Catholics hate the Protestants  
And the Moslems hate the Hindus  
And everyone hates the Jews.*

In this case, everyone hates the LPTV operators.

4. LPTV and Class A stations have been caught and squeezed between the full-power television station digital conversion and 700 MHz auctions. VenTech itself has already suffered from this Scylla and Charybdis, having lost one of its LPTV stations in the crowded Los Angeles market due to a lack of spectrum.

5. However, by taking a step back it becomes obvious that the source of tension – the lack of spectrum – can be eliminated through prioritization and timing. In 2006, the full-power television station digital conversion should be complete. At that time, an enormous amount of ‘core’ spectrum will be made available and LPTV stations will find plenty of room to move into the ‘core.’ This, in turn, will clear the 700 MHz band and eliminate the concerns of the auction winners. Of course, the key to all of this is that the Commission ensures that the digital conversion takes place on time.

#### The Proposed “Win-Win” Solution

6. Accordingly, VenTech proposes that the Commission set a deadline, such as January 1, 2007, that establishes the time at which all digital LPTV and Class A stations gain primary status. Such a deadline will work to satisfy many of the competing interests. First, and most importantly, it will speed the digital transition amongst full-power television stations. Knowing that there is a date by which all LPTV stations will no longer be considered secondary will be the strongest ‘whip’ to spur the full-power television stations to complete their digital transition and to return their analog channels to the Commission. To facilitate this process, and further alleviate the full-power television stations’ fears, there should be a 90 day moratorium before the deadline on new LPTV applications to free Commission resources to focus on the full-power television digital applications.

7. The deadline would also benefit the 700 MHz license holders because it would compel both LPTV and full power television stations to move into the core. The licensees of 700 MHz frequency bought their licenses at a discount knowing that their use of these frequencies would be unavailable for years to come. By providing a deadline for LPTV stations and full service television stations to move to the core, they would be getting an additional benefit. The certainty of a deadline would also assist the 700 MHz license holders in developing their business, both for construction timeframes as well as fundraising.

8. Likewise, the deadline would give LPTV stations knowledge of a date by which they can begin to invest and construct even better stations. The primary status would make it far easier for LPTV station owners to raise investment capital. LPTV stations could apply for and construct digital facilities prior to the date by which they would get primary status, however, they would not have primary status until the above-referenced deadline.

9. VenTech supports the engineering comments insofar as they address means by which the Commission and its licensees can make more efficient use of spectrum. However, given the enormous amount of work required over the next few years to complete the digital transition, VenTech would not encourage the early adoption of any engineering changes unless they can be made without unduly affecting the Commission or licensees ability to review or file technical applications. Thus, VenTech supports raising the power limits on highband VHF LPTV and Class A stations to 10 kW ERP for NTSC stations and to 1 kW ERP for digital stations. However, the Commission should continue to allow LPTV and Class A stations to use the default standard vertical plane

pattern for modeling their proposed facilities that has worked so well in processing applications to date. Changing the model at this point could put a huge burden on software, design and engineering, which could seriously delay the process of evolving LPTV and Class A stations to digital.

10. As for digital translators and boosters, VenTech has not read any comments that justify granting them any new priority over LPTV stations. Once the deadline has passed, and LPTV stations can apply for primary digital status, VenTech encourages the Commission to review digital applications through a series of application windows, after which all future applications would be accepted on a first-come, first-served basis. The initial digital application windows would be opened nationwide in the following order: 1) Class A Applications, open to NTSC stations that are either Class A or Class A eligible, 2) Class A Conversions, open to NTSC stations that are not Class A or Class A eligible but would like to obtain Class A status, 3) LPTV Displacements, open to LPTV stations that are being displaced but do not wish to become Class A digital, 4) LPTV Stations, open to any LPTV station, 5) TV Translator Stations, open to all TV translator stations and, finally, a window for 6) Booster Stations, open to all booster stations.

11. Finally, VenTech again urges the Commission to finally eliminate the loophole in the program exclusivity rules,<sup>2</sup> so that digital Class A and LPTV stations would be entitled to exercise program exclusivity.<sup>3</sup>

Respectfully submitted,

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<sup>2</sup> 47 C.F.R. 76.151-161 & 47 C.F.R. 76.92-97

<sup>3</sup> Petition for Rulemaking to Amend the Commission's Rules To Extend its Network and Non-Network Territorial Exclusivity, Syndicated Exclusivity, and Network Non-Duplication Protection Rules to Low-Power, Class A, and Noncommercial Broadcast Stations (RM-10335). See also In the Matter of Amendment of Parts 73 and 76 of the Commission's Rules Relating to Program Exclusivity in the Cable and Broadcast Industries, 3 FCC Rcd 6171 (1988) at ¶ 44.

/s/Lawrence Rogow

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